IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1331 of 2006

For Approval and Signature:

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CARMEL SOCIETY - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR JOY MATHEW for Petitioner
MR DASHRATH R.CHAUHAN, AGP for Respondents

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CORAM : HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 26/11/2007

ORAL JUDGMENT

1. This petition under Article 226 of the Constitution of India has been filed by the petitioner-Trust praying for the following reliefs:

(A) declaring the order dated 12.1.2006 passed by the respondent No.1 as illegal, null and void, in clear violation of the principles of natural justice, arbitrary, discriminatory and in violation of Articles 14, 19 and 21 of the Constitution of India and quashing and setting aside the same;

(B) permanently restraining the respondents from evicting the petitioner from the property Pankaj Bungalow situated at Station Road, Junagadh and further preventing the respondents from interfering with their peaceful possession and occupation of the said property as per the resolution dated 26.6.1984;

(C) by way of interim relief, restraining the respondents from acting, implementing, operating or taking any action in pursuance of the order dated 12.1.2006 at Annexure-K; and

(D) to pass any other appropriate order.

2. The case set out by the petitioner, in brief, is that in the year 1954, the petitioner was invited by the erstwhile Saurashtra administration to work in the Leprosy Hospital at Junagadh. On 23.9.1954, the petitioner was allotted a bungalow known as “Pankaj Bungalow” along with its surrounding land as residential

quarters, and ever since then, the members of the petitioner-Society are rendering their services at the Leprosy Hospital. On 10.2.1984, the petitioner-Trust made an application to the concerned authority, informing it of its desire to purchase the “Pankaj Bungalow” or, in the alternative, to execute a long term lease of the property in their favour. A copy of this application dated 10.2.1984 is annexed as Annexure-A to the petition. On the basis of the said application, the State of Gujarat, Health and Family Welfare Department, passed a Resolution dated 26.6.1984, leasing out “Pankaj Bungalow” and the surrounding land (property in dispute) consisting of a built up area of 711 sq.mt. and land comprising 11201 sq.mt. for a period of 99 years. According to the said Resolution, the period of lease is for 99 years from the date of passing of the Resolution or till such time as the Carmel Society (petitioner herein), is willing to offer their services in the Leprosy Asylum at Junagadh, as per the terms and conditions, whichever is earlier.

3. It is the case of the petitioner that permission was given to construct certain other buildings in the open land, for a Hostel for children of Leprosy patients, and other buildings for vocational training and general education of the Leprosy patients. It is stated in the petition, that the petitioner-Trust has been working in the Leprosy Hospital at Junagadh ever since 1954 and, pursuant to the execution of lease, there are about 60 children of Leprosy patients in the hostel constructed on the disputed property. However, vide letter dated 12.1.2006 which is impugned in the petition, the respondent No.1 has cancelled the lease of 99 years which had been executed with the petitioner, unilaterally and without giving an opportunity of hearing to the petitioner.

4. Notice was issued by this Court on 30.1.2006 and in the meantime, the operation of the impugned order dated 12.1.2006 was stayed. Thereafter, this Court issued Rule on 20.2.2006 and directed that the ad-interim relief granted earlier will continue.

5. An affidavit-in-reply dated 13.2.2006 has been filed by the respondent No.1 to which the petitioner has filed an affidavit-in-rejoinder.

6. However, today, when the matter is taken up for final hearing, Mr.Joy Mathew, learned counsel for the petitioner, states at the Bar that the petitioner-Trust is ready to hand over the possession of the property, namely, “Pankaj Bungalow” to the respondent No.3 on or before 31.3.2008 and till such time, he prays that the interim relief already granted by the Court may be continued. In this view of the matter, Mr.Joy Mathew, learned counsel for the petitioner states that, on instructions from his client, he is not pressing the petition on merits.

7. In view of the statement made by the learned counsel for the petitioner that the petitioner-Trust is ready to vacate the property in dispute on or before 31.3.2008, the prayer of the petitioner that the operation of the interim order should continue upto 31.3.2008 cannot be regarded as being unreasonable.

8. Mr.Dashrath R.Chauhan, learned Assistant

Government Pleader for the respondents, has no objection if the interim order of the Court dated 20.2.2006 is directed to continue till 31.3.2008.

9. Accordingly, the petition is disposed of on the statement made by Mr.Joy Mathew, learned counsel for the petitioner that the petitioner-Trust will vacate the disputed premises on or before 31.3.2008. In the interest of justice, the interim order of this Court dated 20.2.2006 staying the operation of the order dated 12.1.2006 of the respondent No.1 shall remain in force till 31.3.2008. The petition stands disposed of in the above terms. Rule is discharged. There shall be no orders as to costs.

(Smt.Abhilasha Kumari, J.)

(sunil)